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EPA Region 5 Records Ctr.



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN THE MATTER OF:)

GEMEINHARDT, A UNIT)
OF CBS, INC.)

Proceeding under Section 106(a))
of the Comprehensive Environmental)
Response, Compensation and)
Liability Act of 1980, 42 U.S.C.)
§ 9606(a).)

ADMINISTRATIVE ORDER
Docket No. V-W-85-C-003

CONSENT ORDER

I. JURISDICTION

This Consent Order is issued on consent of the parties hereto pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9606(a), and delegated to the Administrator of the United States Environmental Protection Agency ("U.S. EPA") on August 14, 1981, by Executive Order 12316, 42 Fed. Reg. 42237 (Aug. 20, 1981), who duly redelegated the authority to the Regional Administrator of Region V, U.S. EPA on April 1, 1983. The State of Indiana has been notified of the issuance of this Order as required by CERCLA.

II. PARTIES BOUND

This Consent Order shall apply to and be binding upon Gemeinhardt, a unit of CBS, Inc. ("Respondent"), and the U.S. EPA (the "Parties").

III. FINDINGS OF FACT

Based upon information available to U.S. EPA on the effective date of this Order, but without trial or adjudication of any issues of fact or law and without admission of any fact, liability or responsibility by Respondent, and specifically limited to this proceeding and no other party, the U.S. EPA hereby finds that:

1. From sometime in the 1940's until May, 1977, K.G. Gemeinhardt Company, Inc., an Indiana Corporation, and its predecessors, owned and operated manufacturing facilities on a three-acre site on State Route 19 in an unincorporated area southwest of Elkhart, Indiana. Respondent is now, and has been since May, 1977, the owner and operator of the Gemeinhardt plant number 1 located on State Route 19 southwest of Elkhart, Indiana. (the "Gemeinhardt Site" or the "Site").

2. The Gemeinhardt plant number 1 is an ongoing operation for the manufacture of flutes and piccolos, comprised primarily of the following operations: pickling, tumbling, buffing, degreasing, assembly and finishing.

3. The Site is located in an area of mixed commercial, light manufacturing and residential land uses. Current land uses surrounding the Site include a mobile home manufacturer, a recreational vehicle ("RV") dealer, an RV manufacturer, a

fiberglass plant, a muffler shop, a large metal working plant, a metal scrap plant, an auto parts salvage yard and gas stations.

4. Several of the processes at the Gemeinhardt plant produce process waste streams that were disposed of at the Gemeinhardt site. The process wastes formerly drained to various sumps that pump the wastes to several dry wells (the "dry wells"), to a gravel seepage bed, or to a septic tank at the site (collectively the "seepage systems"). These wastes then were allowed to seep into the ground and the shallow underlying aquifer. This shallow aquifer is heavily used in the area as an underground source of drinking water.

5. The Gemeinhardt plant number 1 produces approximately 2,500 gallons of wastewater per operating day that were formerly pumped to the various seepage systems. The wastewater contains a variety of process wastes, including chlorinated solvents and heavy metals.

6. The Gemeinhardt Site, the dry wells, the gravel seepage bed and the structures used in manufacturing are all "facilities" within the definition of that term in Section 101(9) of CERCLA, 42 U.S.C. §9601(9). The dry wells also are "injection wells" as that term is defined in the Safe Drinking Water Act implementing regulations at 40 C.F.R. §144.3.

7. Several of the waste streams formerly discharged to the dry wells and seepage systems at the Gemeinhardt site are hazardous wastes as defined in Section 1004(5) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §6904(5), and

implemented by RCRA regulations at 40 C.F.R. Part 261. Accordingly, such wastes are also hazardous substances as defined by Section 101(14) of CERCLA, 42 U.S.C. §9601(14), and hazardous wastes as defined by Safe Drinking Water Act implementing regulations at 40 C.F.R. §144.3. The disposal of hazardous wastes into injection wells such as those at the Gemeinhardt Site is banned by Federal regulation as of December 25, 1984. 40 C.F.R. §§144.13 and 147.

8. Sometime prior to December 25, 1984, Gemeinhardt had ceased all wastewater discharges to the dry wells. Gemeinhardt has removed approximately 1,000 cubic yards of contaminated soil from the Site. As of January 8, 1985, Gemeinhardt contracted with the city of Elkhart to dispose of its wastewater at the Elkhart Municipal Wastewater Treatment Plant.

9. Samples of water taken from 42 shallow drinking water wells north-north-west of the Gemeinhardt site by U.S. EPA in 1984 show contamination with high levels of chlorinated solvents that are being or have been used by Respondent at the Gemeinhardt Site and were formerly disposed of by Respondent in its wastewater into the dry well seepage system. A plot of the contaminated wells on a map of the area (~~Attachment~~ 1) appears to show a plume of contamination moving away from the Gemeinhardt Site in the direction of expected groundwater flow.

10. The chlorinated solvents detected in the drinking water wells, primarily trichloroethylene (TCE) and perchloroethylene (PCE), may be both acutely and chronically toxic

to humans at the levels found. TCE and PCE have been identified as carcinogens in certain laboratory animals.

11. Upon learning of the contamination of the drinking water wells in the area, the U.S. EPA arranged to provide bottled water to affected residences and business. The U.S. EPA has been providing this bottled water from August 1984 to the present. The U.S. EPA further contracted with the City of Elkhart, Indiana to run water supply lines to the area to provide drinking water on a permanent basis. The construction of these lines has been completed or nearly completed as of the date of this Order.

12. The well sampling done by U.S. EPA appears to indicate that the contaminated plume does not extend more than approximately one mile from the Gemeinhardt site at this time. The residential drinking water wells sampled just over a mile from the Site in the expected direction of groundwater flow show traces of the chlorinated solvents of primary concern. There are numerous residences and businesses further from the Site in the expected direction of groundwater flow whose shallow drinking water wells have been sampled and do not show contamination from chlorinated solvents at this time.

13. If no action is taken to deter the further movement of the contaminated groundwater plume, the drinking water wells approximately one mile from the Gemeinhardt Site that are currently showing trace amounts of chlorinated solvents may

become increasingly contaminated and unusable. In the longer term, numerous additional drinking water wells in use by businesses and residences more than a mile from the site in the direction of groundwater flow may become contaminated and unusable.

14. Respondent does not admit or concur in any of these Findings of Fact.

IV. DETERMINATIONS

Based upon the foregoing findings, and for the purpose of this order only, U.S. EPA has determined that:

1. Hazardous substances, including Trichloroethylene and Perchloroethylene, have been released into the groundwater at the Gemeinhardt Site. This release and threatened further release of hazardous substances at the Site into the groundwater may pose an imminent and substantial endangerment to the public health or welfare or the environment.

2. In order to protect public health, welfare and the environment, it is necessary to prevent further releases of hazardous substances to the shallow aquifer underlying the site, and to identify and implement the additional measures set out in this order to deter further contamination of drinking water supplies.

3. The interim remedial action covered in this order is not inconsistent with the National Contingency Plan, found at 40 C.F.R. Part 300.

V. ORDER

Based upon the foregoing determinations and findings, and Respondent's agreement to undertake the following interim remedial action, it is hereby ordered that:

Respondent shall undertake the following measures (the "Work") at the Gemeinhardt Site to mitigate the danger to public health and welfare from contamination of groundwater and drinking water wells as follows:

1. Respondent shall continue to cease the discharge of plant process wastes to the septic/dry well system and the gravel seepage bed at the Site. Such wastes must be disposed of in a manner that does not allow them to enter the underlying shallow aquifer.

2. Within 10 working days of the effective date of this Order, Respondent shall submit a plan for removal of all contaminated soils in and around the dry wells and gravel seepage bed at the site. The plan shall include a proposed schedule for implementation. The U.S. EPA shall review the plan and approve it or modify and approve it in accordance with paragraph VIII of this order. Respondent shall commence implementation of the approved plan within 10 working days of receipt of such approval from U.S. EPA.

3. Within 30 days of the effective date of this Order, Respondent shall propose a plan for conducting an investigation of the Site sufficient to fully characterize the sources and extent of groundwater contamination that has been

identified to the north-north-west of the Site. The plan shall include provision for obtaining necessary hydrogeological expertise to assist in this effort and for developing additional data through additional groundwater monitoring. The plan shall also include a proposed schedule of implementation. The U.S. EPA shall review the plan and approve it or modify and approve it in accordance with paragraph VII of this order. Respondent shall commence implementation of the approved plan within 10 working days of receipt of such approval from U.S. EPA.

4. Upon completion of the investigation in Paragraph 3 above, Respondent shall identify and evaluate feasible alternative remedial actions for prevention of further migration of the groundwater contamination and for treatment thereof. (The foregoing shall include, but not be limited to, evaluation of purge wells and other barriers to migration.) The foregoing evaluation shall be based upon economic, environmental and engineering criteria. Respondent shall prepare a report which summarizes its findings and which recommends one or more of such alternatives. Said report shall be submitted no later than thirty (30) days after completion of the investigation.

VI. PROGRESS REPORTS

A. Respondent shall provide to U.S. EPA written progress reports which describe the actions which have been taken toward achieving compliance with this Consent Order during the previous month as well as actions which are scheduled for the next month. These progress reports are to be submitted to U.S. EPA

by the tenth day of every month following the effective date of this Consent Order.

B. Documents, including progress reports and approvals, to be submitted to the Parties shall be sent by certified mail return receipt requested, to the following addresses or to such other address as the parties hereafter may designate in writing

1. Those documents to be submitted to U.S. EPA should be sent in duplicate to:

Director, Waste Management Division
U.S. EPA, Region V
230 South Dearborn Street
Chicago, Illinois 60604

2. Those documents to be sent to Respondent should be sent to:

Goodwin, Procter & Hoar
28 State Street
Boston, Massachusetts 02109
Attn: Paul F. Ware, Jr., Esq.

C. If the date for submission of any item or notification required by this Consent Order falls upon a weekend or state or federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

VII. PROJECT COORDINATORS

A. Respondent and U.S. EPA shall each designate a Project Coordinator for the purpose of overseeing the implementation of this Consent Order. To the maximum extent possible, except as specifically provided in the Consent Order, communications among Respondent and U.S. EPA concerning the terms and conditions of this Consent Order shall be made

between the Project Coordinators. During the course of implementation of the Work, the Project Coordinators shall, whenever possible, operate by consensus. The Project coordinators shall attempt to resolve disputes informally through good faith discussion of the issues.

B. Within five (5) days of the effective date of this Consent Order, the parties shall notify each other, in writing, of the name, address and telephone number of the designated Project Coordinator and an Alternate Project Coordinator.

C. Each Project coordinator shall be responsible for assuring that all communications received from the other Project Coordinators are appropriately disseminated and processed.

D. The Project Coordinator for U.S. EPA ("OSC") shall have the authority vested in an on-scene coordinator by 40 C.F.R. Part 300 (1983), including authority to require Respondents to cease performance of the Work or any portion thereof which in the opinion of the OSC, may or does present or contribute to an imminent and substantial endangerment to public health, welfare or the environment. In the event that the OSC does require such cessation of the Work, the OSC then shall have the authority to require Respondent to perform the Work under this Consent Order in accordance with the instructions of the OSC to avoid or mitigate the endangerment, which he or she believes may occur. If Respondent objects to any order requiring cessation of the Work or to any order to perform the Work in accordance with the instructions of the OSC, Respondent may

initiate procedures under the dispute resolutions provisions of this order, paragraph IX. To the extent that completion of any of Respondent's obligations under this Consent Order are delayed by such cessation of the Work, such delay (unless caused by a violation of this Consent Order not beyond the reasonable control of Respondent) shall be considered to be beyond the control of the Respondent for the purpose of paragraph XII.C.

E. Either the Project Coordinator for Respondent or the Alternate Project Coordinator for Respondent shall be on-site during all hours of site work and shall be on call for the pendency of this Consent Order.

F. Any Project Coordinator upon request may obtain a split or duplicate sample from any sample being taken at the site by any other Project Coordinator or representative of any other Party under this order. The Respondent's Project Coordinator shall notify the U.S. EPA Project Coordinator not less than five business days in advance of any sample collection for which the U.S. EPA Project Coordinator has indicated that he wishes to obtain split or duplicate sample.

VIII. REVIEW OF DOCUMENTS

A. Respondent shall submit all documents required by the Work to U.S. EPA pursuant to the criteria and schedules set forth in the Work.

B. U.S. EPA shall review each such document and, within thirty (30) calendar days of receipt advise Respondent in writing as to whether the document is approved or disapproved.

In the event Respondent is notified that the document is disapproved in whole or in part, U.S. EPA shall include a statement in the notification as to the modifications or additions which must be made to the document prior to approval, and an explanation as to why such modifications or additions are necessary. U.S. EPA shall base any decision to approve or disapproved a document upon whether it will satisfy the purposes and specifications of this order as set forth in paragraph V, supra, and whether such document is consistent with the National Oil and Hazardous Substances Contingency Plan, 40 C.F.R. Part 300 (1983).

C. If Respondent does not object to the corrective measures, if any, proposed by U.S. EPA Respondent shall expeditiously undertake and complete such measures in accordance with the proposed schedule of completion.

D. If Respondent objects to any proposed corrective measures, Respondent shall, within ten days after receiving written notice, initiate the dispute resolution procedure set forth in Section IX of this Consent Order.

IX. RESOLUTION OF DISPUTES

All disputes concerning implementation of this Consent Order shall be resolved pursuant to the following procedure:

A. Any Project Coordinator who determines that a dispute cannot be resolved informally shall provide a written notice to the other Project Coordinator which sets forth:

- i.) his understanding as to the nature of the dispute
- ii.) his understanding as to the technical

position of the other Project Coordinators with regard to the dispute

- iii.) his technical position with regard to the dispute and
- iv.) the bases for concluding that his technical position on the dispute should be followed rather than the positions of the other Project Coordinator in dispute.

B. Within ten (10) business days of receipt of any notice of dispute, the other Project Coordinator shall advise the first in writing as to whether he agrees or disagrees with the specific statements provided in the notice to them pursuant to sub-paragraph A of this Section. Any Project Coordinator who disputes a specific statement shall clearly set forth:

- i.) the bases for disputing such statement
- ii.) his technical position with regard to the disputed statement
- iii.) the bases for concluding that his technical position on the dispute should be followed rather than the other Project Coordinator in dispute.

C. If, within ten (10) business days from the date of the submission of the reply(ies) to the notice of dispute, the parties have not reconciled all issues raised in such notice, U.S. EPA shall present a written notice to Respondent which sets forth the remaining areas of disagreement and the action(s), withholding of action(s), or change(s) to the Work that U.S. EPA determined are necessary. If Respondent believes that the resulting U.S. EPA proposal is technically inappropriate or inconsistent with the Work, Respondent shall notify U.S. EPA

within ten (10) business days of receipt of such proposal. If Respondent does not so notify U.S. EPA Respondent shall be deemed to have assented to the proposal made by U.S. EPA and such proposal shall become part of the Consent Order.

D. If Respondent notifies U.S. EPA of its continued objections to the proposal, the parties shall have an additional ten (10) business days from receipt of Respondent's notifications within which to resolve the dispute. Changes to the Work agreed to in writing among the parties during this ten (10) business day period shall become part the Consent Order as if originally so written.

E. Any such dispute not resolved by the end of the ten (10) business day period specified in sub-paragraph D above, shall be deemed resolved in favor of U.S. EPA and shall become part of the Consent Order.

F. Any such adoption of terms pursuant to subparagraph IX.E., above, shall be deemed to be a final Agency action. Respondent shall have fifteen (15) calendar days to file an appeal of such final Agency action in a court of competent jurisdiction. Respondent may also, at that time, request a determination from the Court as to whether Respondent should be given an extension to the schedule for completion of the Work for the period of time during which the dispute at issue delayed such work.

G. Respondent waives any right they may have to contest or adjudicate the validity of any term in this Consent Order, except any terms adopted pursuant to Subsection IX.E., above.

X. ACCESS TO THE SITE

- U.S. EPA and its authorized representatives shall have access to the Site at all reasonable times in order to oversee implementation of this order by observing and monitoring the progress of the Work, taking samples from and inspecting the Site, and inspecting records relating to the performance of the Consent Order. Prior to access, the project coordinators shall agree on the times and conditions of entry.**

XI. RETENTION AND AVAILABILITY OF INFORMATION

A. U.S. EPA will provide to Respondent all sampling and analytical data and technical field notes in its possession applicable to the groundwater contamination at the Site.

B. Respondent shall make available to U.S. EPA and shall retain during the pendency of this Consent Order and for a period of six years after its termination, all records and documents in their possession, custody, or control which relate to the performance of this Consent Order, including, but not limited to documents reflecting the results of any sampling, tests or other data or other information generated or acquired by any of them, or on their behalf with respect to the implementation of this Consent Order.

C. Respondent may assert business confidentiality claims covering part or all of the information provided in connection with this Consent Order pursuant to 40 C.F.R. §2.203(b). Analytical data acquired by any Party pursuant to this Order shall not be claimed as confidential by the Parties. Information

determined to be confidential by U.S. EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is submitted to the U.S. EPA, the public may be given access to such information without further notice to Respondent.

XII. DELAY IN PERFORMANCE; STIPULATED PENALTIES

A. Respondent shall pay into the Hazardous Substances Response Trust Fund administered by U.S. EPA the sums set forth below as stipulated penalties for each full week that Respondent fails to meet a deadline set out in the Work or a plan approved thereunder which results from reasons within the Respondents's reasonable control.

These stipulated penalties shall accrue in the amount of \$1,000.00 for the first full week and \$2,000.00 for each full week thereafter payable to the order of the respective parties and forwarded to the addressees set out in paragraph VI.B. of this Consent Order.

B. Respondent shall notify U.S. EPA within twenty (20) calendar days of any delay which occurs in the performance of the Work or the submission of reports required under this Consent Order. Such notification shall be in writing and shall describe fully the nature of the delay, the reasons therefore, the expected duration of the delay, the actions which will be taken to mitigate further delay, and the timetable by which the actions in mitigation of the delay will be taken. All parties shall adopt all reasonable measures to avoid or minimize any such delay.

C. Any failure by Respondent to properly complete the Work, or submit reports or documents required by this Consent Order, which results from circumstances beyond the reasonable control of Respondent shall not be deemed to be a violation of its obligations under this Consent Order nor shall it make Respondent liable for the stipulated penalties contained in paragraph XII(A) of this Consent Order. To the extent a delay is caused by such circumstances beyond the control of Respondent, the time for performance hereunder shall be extended by written agreement of the parties.

D. In the event Respondent and U.S. EPA cannot agree that the time for performance shall be extended, the dispute shall be resolved in accordance with the provisions of paragraph IX of this Consent Order. Respondent shall have the burden of proving that the delay was caused by circumstances beyond the control of Respondent.

E. The stipulated penalties set forth in subparagraph XII(A) above shall not preclude U.S. EPA from electing to pursue any other remedies or sanctions, including a suit for statutory penalties up to the amount authorized by law, which may be available to U.S. EPA by reason of Respondent's failure to comply with any requirements of this Consent Order.

XIII. COMPLIANCE WITH ALL LAWS

All work undertaken by Respondent pursuant to this Consent Order shall be performed in compliance with all applicable federal, state and local laws and regulations. Respondent

be responsible for obtaining all federal, state, or local permits or approvals that are necessary under such laws and regulations for the performance of the Work. U.S. EPA agrees to expedite and assist the processing of any such permits for which it is the issuing authority.

XIV. PARTICIPATION IN COMMUNITY RELATIONS ACTIVITIES

Respondent shall be given reasonable notice of and provided with the opportunity to participate in any public meetings which may be held or sponsored by U.S. EPA or Indiana to explain activities at the Site pursuant to this Consent Order.

XV. REIMBURSEMENT OF RESPONSE COSTS

A. Within thirty (30) days from the effective date of this Consent Order and receipt of a full accounting, Respondent shall pay to U.S. EPA the following costs incurred by U.S. EPA as response costs:

- i) \$50,000.00 for water main extension and subsequent tap-in(s)
- ii) \$31,505.00 for individual dwelling hook-ups
- iii) \$11,700.00 for TAT Cost (Technical Assistance Team project incurred through January 7, 1985)
- iv) \$8,910.47 for bottled water through January 31, 1985

B. As soon as possible after the effective date of this Order, U.S. EPA shall provide Respondent with a full accounting and explanation as to additional response costs incurred by U.S. EPA for analytical services to the date of this Consent

Order. Respondent agrees to pay to U.S. EPA the amount of said additional cost within thirty (30) days of receipt of the aforesaid accounting. Any dispute regarding said costs shall be determined in accordance with Article IX hereof.

C. Payment shall be made to the order of the Hazardous Substances Respond Trust Fund and forwarded to Regional Hearing Clerk, 230 South Dearborn Street, Chicago, Illinois 60604. Nothing hereunder shall restrict the right of U.S. EPA to collect any additional response costs (including U.S. EPA administrative costs) to which it may be entitled whether incurred prior to or subsequent to the date hereof.

XVI. COVENANT NOT TO SUE

From the effective date of this Consent Order, for as long as the terms herein are complied with, and upon or after termination of this Consent Order pursuant to Paragraph XVII, U.S. EPA covenants not to sue, execute judgment or take any civil judicial or administrative action under common law or any federal statutes administered or enforced by U.S. EPA, including CERCLA, against the Respondent, their divisions, parents, affiliates or their respective directors, officers, employees, agents, successors and assigns, arising out of or related to costs specified in Paragraph XV A and B.

XVII. RESERVATION OF RIGHTS

A. Except as expressly provided in this Consent Order, Respondent and U.S. EPA expressly reserve all rights and defenses

that they may have, including U.S. EPA's right to seek reimbursement from Respondent for costs (except pursuant to Paragraph XV above) incurred by the Hazardous Substances Response Trust Fund and its right to disapprove the Work performed by Respondent as provided in this Consent Order, in which event U.S. EPA will have the right to undertake its own remedial investigation, feasibility study, and remedial actions. U.S. EPA reserves the right to take further equitable, administrative or legal action against Respondent with respect to remedial measures necessary to abate groundwater contamination or in the event that, based upon information not presently known, the Site has been determined to present an imminent and substantial endangerment to public health or the environment.

B. Nothing herein is intended to release, discharge, or in any way affect any claims, causes of action or demands in law or equity against any person, firm, partnership or corporation not a Party to this Consent Order from any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any materials or hazardous substances at, to, or from the site. The parties to this consent order expressly reserve all rights, claims, demands, and causes of action they have against any and all other persons and entities who are not parties to this consent order.

C. Nothing in this Consent Order is intended by the parties to be, nor shall it be, a release or settlement of any

private claims for injuries to persons or property, known or unknown, of any private persons, or of any local governmental entity.

D. The U.S. EPA recognizes that Respondent may assert a right to contribution, indemnity and(or) any other available remedies against any person found to be a responsible person or otherwise liable for contribution, indemnity and(or) other available remedies for any amounts which have been or will be expended by Respondent or paid to the U.S. EPA and(or) Indiana under this Consent Order.

XVIII. OTHER CLAIMS

Respondent agrees to indemnify and save and hold harmless U.S. EPA from any and all claims or causes of action arising from negligent acts or omissions or willful misconduct of Respondent in carrying out the activities pursuant to this Consent Order. U.S. EPA shall notify Respondent of any such claims or actions within twenty (20) business days of receiving notice that such a claim or action has been filed. U.S. EPA agrees not to act with respect to any such claim or action without first providing Respondent with an opportunity to participate. U.S. EPA further agrees to cooperate with Respondent in the defense of any such claim or action. U.S. EPA shall not be held liable under or as a party to any contract entered into by Respondent in carrying out the activities pursuant to this Consent Order.

XIX. NO ADMISSIONS

Nothing in this Consent Order is intended by the parties

to be, nor shall it be, an admission of facts or law, an estoppel or a waiver of defenses by Respondent for any purpose, or an acknowledgement by Respondent of any liability to any party whatsoever. Respondent does not admit or concur in any of the Determinations set forth in Section IV.

XX. PUBLIC COMMENT AND EFFECTIVE
DATE OF ADMINISTRATIVE ORDER

Within fifteen (15) days of the date of the execution of this Consent Order, U.S. EPA shall announce the availability of this Consent Order to the public for review and comment. U.S. EPA shall accept comments from the public for a period of thirty (30) days after such announcement. At the end of the comment period, U.S. EPA shall review all such comments and shall either:

a) determine that the Consent Order should be made effective in its present form, in which case Respondent shall be so notified in writing. The Consent Order shall become effective on the date Respondent receives such notification; or

b) determine that modification of the Consent Order is necessary, in which case Respondent will be informed as to the nature of all required changes. If Respondent agrees to the modifications, the Consent Order shall be so modified and shall become effective upon signature of the parties. In the event that Respondent is unwilling to agree on modifications required by U.S. EPA as a result of public comment, this Consent Order may be withdrawn by U.S. EPA. In such an event, U.S. EPA

reserves all rights to take such actions as they deem necessary, and Respondent reserves all rights to contest such actions.

XXI. TERMINATION AND SATISFACTION

The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from U.S. EPA that Respondent has demonstrated that all of the terms of the Consent Order have been completed. Following completion of all of the requirements of the Work in the Consent Order, Respondent shall request a determination by U.S. EPA as to whether it has satisfactorily completed the Work. U.S. EPA shall provide Respondent with such a determination within 30 days of such a request and such determination shall not be unreasonably withheld. Any negative determination by U.S. EPA shall set forth the reasons why the Work has not been satisfactorily completed. Respondent shall have a reasonable opportunity to correct such deficiencies.

IT IS SO AGREED:

) Gemeinhardt, a unit of CBS, Inc.

By: *Ella E. Halty*

Date: 2/20/85

IT IS SO ORDERED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION V

By: *Robert Springer for*
Valdas V. Adamkus
Regional Administrator
United States Environmental Protection
Agency, Region V

Date: 3/7/85